



Billing Code 4310-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R3-ES-2012-N179]

[FXES11120300000F2-123-FF03E00000]

**Draft Midwest Wind Energy Multi-Species Habitat Conservation Plan Within
Eight-State Planning Area**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent, request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), advise the public that we, in coordination with our planning partners, intend to prepare the Midwest Wind Energy Multi-Species Habitat Conservation Plan (MSHCP) under the Endangered Species Act of 1973, as amended (ESA). The planning partners are currently considering for inclusion in the MSHCP certain species that are federally listed, as well as other species likely to become listed, within the eight-State planning area. Planning partners in this effort include the conservation agencies for the eight states, The Conservation Fund, and the American Wind Energy Association (AWEA). We provide this notice to (1)

describe the proposal; (2) advise other Federal and State agencies, potentially affected tribal interests, and the public of our intent to prepare the MSHCP; (3) seek public input, suggestions, and information on any issues pertaining to this planning process; (4) and to seek public input on what the permit area should be within the eight-State planning area.

DATES: To ensure consideration, we request written comments on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Send your comments or request information by any one of the following methods:

U.S. Mail: Regional Director, Attn: Rick Amidon, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437-1458;

Facsimile: 612/713-5292 (Attn: Rick Amidon); or

E-mail: midwestwindhcp@fws.gov.

FOR FURTHER INFORMATION CONTACT: Rick Amidon, (612) 713-5164.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA (16 U.S.C. 1538) and its implementing regulations prohibit take of species listed as endangered or threatened. The definition of take under the ESA includes to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species or to attempt to engage in such conduct” (16 U.S.C. 1532(19)). Section 10 of the ESA (16 U.S.C. 1539) establishes a program

whereby persons seeking to pursue activities that are otherwise legal, but could result in take of federally protected species, may receive an incidental take permit (ITP).

Covered Land

The planning area encompasses the Midwest Region of the Service and includes all or portions of the following eight States: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. The specific land that the MSHCP will cover (“covered land or permit area”) have yet to be determined and could be all or portions of the eight States. Once identified, the “covered land” will be the general locations where future ITPs could be issued under the MSHCP. Land not identified as “covered land” will not be eligible for an ITP under this planning effort; however, individual take authorizations could be developed for those areas outside of this planning effort.

Covered Activities

The activities proposed to be covered (“covered activities”) under the MSHCP include the siting, construction, operation, maintenance, and decommissioning of wind energy facilities within all or portions of the eight-State planning area. Activities associated with the management of mitigation land would also be covered. We anticipate that this MSHCP will include new and existing small-scale wind energy facilities, such as single-turbine demonstration projects, as well as large, multi-turbine commercial wind facilities.

Covered Species

The planning partners are currently considering, for inclusion in the MSHCP, certain species that are federally listed or likely to become listed, and have the potential to be taken by wind energy facilities within the planning area. Those “covered species”

include the endangered Indiana bat (*Myotis sodalis*), the endangered gray bat (*Myotis grisescens*), the endangered piping plover (*Charadrius melodus*), the endangered interior least tern (*Sternula antillarum athalassos*), the endangered Kirtland's warbler (*Setophaga kirtlandii*), the little brown bat (*Myotis lucifugus*), the northern-long eared bat (*Myotis septentrionalis*), and the eastern small-footed bat (*Myotis leibii*), all of which are species of concern. The bald eagle (*Haliaeetus leucocephalus*) is also being considered as a "covered species," but no decision has been made at this time. The final list of "covered species" may include all these species, a subset of these species, or additional species, based on the outcome of the planning process. The MSHCP will be multifaceted in addressing species protection, including, but not limited to, avoidance, minimization of take (e.g., through proven and defined best management practices), and mitigation to offset the impacts of take through potential habitat preservation, restoration, and enhancement. Future applicants seeking an ITP must also ensure that adequate funding for implementation, including biological and compliance monitoring, is provided.

Partners

The eight State conservation agencies participating in the development of this MSHCP are the Illinois Department of Natural Resources, Indiana Division of Fish and Wildlife, Iowa Department of Natural Resources, Michigan Department of Natural Resources, Minnesota Department of Natural Resources, Missouri Department of Conservation, Ohio Department of Natural Resources, and Wisconsin Department of Natural Resources.

AWEA is a national trade association for the wind industry and is representing the interests of a group of wind energy companies in the development of this MSHCP. This

consortium of companies is known as the Wind Energy Bat Action Team (WEBAT). Member companies at this time include Acciona Wind Energy; Akuo Energy USA; Apex Wind Energy; BP Wind Energy; Clipper Windpower Development Company, LLC; Duke Energy Renewables; EDP Renewables; Element Power; enXco; E.ON Climate & Renewables; EverPower Wind Holdings, Inc.; Iberdrola Renewables; Invenergy LLC; NextEra Energy Resources; Nordex USA; Tradewind Energy LLC; US Mainstream Renewable Power; and Wind Capital Group.

The Conservation Fund is a nonprofit organization headquartered in Arlington, Virginia, with offices throughout the United States. The Conservation Fund would serve as the administrative agent on behalf of the States overseeing the development of the MSHCP and the accompanying environmental impact statement (EIS). Moreover, The Conservation Fund would develop a regional framework of conservation lands to be used as a decision support tool for the selection of appropriate mitigation options required for offsetting incidental take of the “covered species”.

MSHCP Structure

In 2009, the eight States that make up the planning area submitted an application for and were awarded a grant under Section 6 of the ESA (16 U.S.C. 1535) to develop the MSHCP and an incidental take permitting program. The States’ grant application envisioned that the MSHCP would be developed as a template/umbrella MSHCP or as a programmatic MSHCP. Under the template approach, the Service would issue individual ITPs to applicants that agree to implement the MSHCP, whereas under the programmatic approach, each State agency would apply for and receive an ITP and would issue certificates of inclusion to wind energy companies that agreed to implement the MSHCP

at their facility. At this time it is anticipated that the issuance of individual ITPs would be the permitting approach under this MSHCP. Currently there are additional permit structure options being considered; however, under any permit structure, the MSHCP would meet all ITP issuance criteria found at 50 CFR 13.21, 17.22(b), and 17.32(b), and would be evaluated under the National Environmental Policy Act (NEPA) and Section 7 of the ESA (16 U.S.C. 1536). The partners envision that under any permit approach, no additional NEPA or Section 7 analysis would occur, and “No Surprises” assurances would apply to the MSHCP. Evaluation of the MSHCP and permitting program would include public review by all interested parties. In the event that the MSHCP might need to be amended in the future (e.g., to add a species or consider an activity not previously evaluated), further public review would occur.

Public Comments

The Service is requesting information and comment from interested government agencies, Native American Tribes, the scientific community, industry, or other interested parties concerning the planning process, our permitting approach, biological aspects of the interaction of wind facilities and species, scientific data that may help inform the MSHCP or monitoring of impacts, and any other information that interested parties would like to offer.

Please note that comments merely stating support for, or opposition to, the MSHCP under consideration without providing supporting information, although noted, will not provide information useful in determining relevant issues and impacts. The public will receive additional opportunity to provide comments on the draft EIS and draft

MSHCP when they are completed. The Service will solicit comments by publishing notice in the Federal Register.

You may submit your comments and supporting documentation by any of the methods described in **ADDRESSES**, above.

National Environmental Policy Act

The Service is responsible for ensuring NEPA (42 U.S.C. 4321 *et seq.*) compliance during the MSHCP process. In compliance with NEPA, we have made an initial determination that the proposed issuance of ITPs under this planning effort will require the development of an EIS. A third-party contractor will be selected in the future to work with the Service and the planning partners to develop an EIS that will satisfy all NEPA requirements. Subsequent notice will be provided when the planning process has progressed to the point where scoping under NEPA is appropriate.

Dated: August 17, 2012

Terence J. Miller
Acting, Assistant Regional Director,
Ecological Services,
Midwest Region

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